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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.3033 of 2019
and
C.M.P.No.19475 of 2019

R.S.Murali

... Appellant

Vs

1. The Chairman & Managing Director,
Tamil Nadu General & Distribution
Corporation Limited,
No.144, Anna Salai,
Chennai 600 002.
2. The Assistant Executive Engineer,
[Operation & Maintenance]
Angalakurichi,
Udumalpet Electricity Distribution Circle,
Coimbatore District.
3. The Assistant Engineer,
[Operation & Maintenance]
Anaimalai - Town,
Udumalpet Electricity Distribution Circle,
Coimbatore District.

...Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the common Judgment and order made in W.P.No.3246 of 2019 dated 11.02.2019 on the file of the High Court of Judicature at Madras.

Prayer in W.P.No.3246 of 2019:

Writ Petition filed to issue a Writ of Certiorari, Mandamus calling for the records comprised in the proceedings of the third respondent dated 23-11-2018 in proceedings க. எண் : இமிபொ / ந / ஆணை / க. தனி / ஆணை : 425/2018 dated 23-11-2018 directing to merge all the existing four service connections into one service



connection in the premises bearing Plot No. 52, Golden City, Anamalai, Coimbatore District as against the provisions of the Electricity Act, 2003 and quash the same and consequently direct the 3rd respondent to restore the service connections bearing A/C Nos: 328-010-679, 328-010-710, 328-010-711 AND 328-010-714 and pass such further or other orders.

For Appellant : Mr.M.Venkatakrisnan

For Respondents : Mr.S.K.Rameshwar, TNEB.

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the consumer challenging the order of the learned Single Judge before whom the appellant has challenged the order clubbing four connections into one connection and disconnecting the other three connections availed by the family members of the appellant for a single building in the Writ petition.

2.The facts of the case are as follows:

The building has been constructed at Plot No.52, Golden City comprised in S.Nos.929/1B, 929/1C situated in Anaimalai Town Panchayat, Pollachi Taluk, Coimbatore District. According to the appellant, there are four portions available in the building and they got four connections for the respective portions viz., for the common area with a Service Connection No.03-328-010-679, for the ground floor occupied by the appellant with a Service Connection No.03-328-010-710. The first floor has got two portions and the first portion in the first floor occupied by the appellant's brother has Service Connection No.03-328-010-711 and the second portion in the first floor occupied by the appellant's father has Service Connection No.03-328-010-714.

3.Though the connections have been obtained long back, a letter has been sent to the appellant dated 13.06.2018 in which it has been stated that an inspection of the building was made on 05.06.2018 in the presence of the appellant and meters were found to be correct. However, the present energy was also compared with the previous recorded energy in respect of Service Connection No.328-010-710 and it was also found to be correct. But the meter reading entry in the meter card was found to be incorrect and therefore, it has been stated that the same would be rectified in the next assessment.



4. Thereafter, a show cause notice was issued on 23.11.2018 stating that the appellant has obtained four electricity connections for a single building and therefore, all the four connections will be clubbed together and only one connection will be retained viz., 328-010-714 and the rest of the three will be disconnected which are single phase connections under Tariff 1A.

5. Immediately thereafter the appellant sent a reply to the show cause notice via e-mail on 01.12.2018 stating that three separate portions are available in the building and therefore including the common area, four separate connections have been rightly got. In the said letter, as an Indian citizen also, the appellant has done his duty by pointing out the mistakes and misdeeds done by the higher officials of the TANGEDCO in the past.

6. Further, after issuance of notice to the appellant by the second respondent and third respondent, the order dated 10.01.2019 has been issued clubbing all the four connections into one by cutting off the other three connections viz., 328-010-679, 328-010-710 & 328-010-711. The said order was challenged before this Court.

7. The learned Single Judge after hearing both the parties dismissed the Writ petition on the ground that there is an alternate remedy available by way of an appeal under Regulation 27 (16) of the Tamil Nadu Electricity Distribution Code and gave liberty to the appellant to file an appeal. The said order is being challenged before this Court by way of this appeal.

8. Heard Mr. M. Venkatakrishnan, learned Counsel for the appellant and Mr. S. K. Rameshwar, learned Standing Counsel (TNEB) for the respondents and perused the records.

9. It is brought to the notice of this Court by the learned Counsel for the appellant that the appellant's property has got three distinct portions and one portion of the first floor had been originally possessed by the father of the appellant (R. S. Srikanta Rao) and now by the sister of the appellant, the other portion of the first floor is being possessed by the brother of the appellant (R. S. Anandh) and the ground floor is being possessed by the appellant (R. S. Murali) and the other connection is to the common area of the building. Therefore, the learned Counsel for the appellant submitted that they are entitled to all the four connections.

10. The learned Counsel for the appellant also pointed out that at no point of time all the meter readings exceeded



beyond 100 units and therefore, there is no question of misuse. He would also submit that the respondents by invoking G.O.(MS) No.36 dated 23.05.2016 erroneously disconnected the Service connections which could not be applied to the facts of the case. Relying upon Section 14 of Regulation 27 of the Tamil Nadu Electricity Distribution Code, he pointed out that in the individual portion of the building, the occupants or the owner is entitled to separate electricity connection. Following the same only, the appellant or his father applied for four connections and obtained the same. Hence, the learned Counsel for the appellant submitted that there is no illegality and therefore, the impugned order passed by the 3rd respondent dated 10.01.2019 has to be set aside.

11.The learned Standing Counsel (TNEB) for the respondents would submit that by giving wrong information, four electricity connections had been obtained for a single building. On inspection, it was found that the building is a single unit and there is no separate unit within the building and therefore, the 3rd respondent is justified in cancelling the three additional connections which have been obtained by giving false information. Therefore, he would support the order passed by the 3rd respondent viz., The Assistant Engineer, [Operation & Maintenance], Udumalpet Electricity Distribution Circle.

12.It is evident from the photographs produced before this Court as well as the order dated 10.01.2019 and the show cause notice dated 23.11.2018 that there is only one building which is a single unit. However, the appellant or his father has got four connections viz., for three distinct units within the building and one for common area.

13.The learned Counsel for the appellant strenuously argued that the appellant's building consists of three portions viz., one was originally occupied by the father of the appellant and now by his sister, the second portion by his brother and the other portion by the appellant himself. However, it is seen that there is no document to show that the property was divided based on partition deed. Admittedly, there is no partition deed entered between the parties. On inspection, it was found by the officials that there is only a single building and the photographs would also show that one person can go into the building to close the door like any other independent house.

14.Therefore, it is evident that it is only an independent single building and there cannot be any division of building into units so as to enable the appellant as well as his family members to get separate electricity connections. However, separate electricity connections had been obtained which is only to defraud the TANGEDCO to see that the total units do not



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exceed 100 units so that they can avail benefits i.e. no payment and if consumption in all the four units are clubbed together definitely it would exceed 100 units and therefore, liability exceeding 100 units is sought to be avoided by getting three connections over and above, one connection which the appellant and his family members are entitled to.

15.The consumption of electricity in all the four service connections would disclose that they have consumed electricity within 100 units only. For example, one month's electricity consumption units in Service Connection No.03-328-010-679 in the name of R.S.Murali would show that the said Murali consumed from 10 to 40 units. Similarly, in respect of other service connections standing in the name of the appellant viz., in Service Connection No.03-328-010-710, the consumption of electricity is between 10 to 500 units, minimum 8 and maximum 500, in Service Connection No.03-328-010-711, the consumption of electricity is between 10 to 50 units, minimum 10 and maximum 50 and in Service Connection No.03-328-010-714, the consumption of electricity is between 20 to 240 units, minimum 20 and maximum 240.

16.Therefore, it is very clear from the records and from the appellant's metre readings that very higher unit has been consumed in all the four connections. If all the four connections are clubbed together, it is proved from the above readings which is produced in additional typed set of papers that consumption is more than 100 units.

17.Therefore, it is evident and proved that the intention of the appellant is only to evade the electricity charges which are exceeding 100 units and he has cleverly manipulated and misled the electricity authorities and got four electricity connections in his own house.

18.As far as regulation is concerned as rightly pointed out by the appellant, he relied upon the Regulation 27 (14) of the Tamil Nadu Electricity Distribution Code to canvass his case and therefore, the Sections 13 to 15 are usefully extracted as follows:

"13.Within a door number or sub door number, an establishment or person will not be given more than one service connection.

14.Where more than one person or more than one establishment is or intended to be in occupation of a door number or sub door number, more than one service connection will be given only if there is a permanent physical / electrical segregation of areas for which different service connections are applied for.



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15. In case of flat system and shopping complexes where more than one flat or shops are located, with permanent physical segregation more than one service shall be given. (Inserted vide Notification No. TNERC/DC/8-8 dated 8.2.2008 w.e.f. 27.02.2008).

15A. Notwithstanding anything contained in sub-regulations (14) and (15), a person or an establishment or an entity shall be given only one service connection in a premises or in contiguous premises to run a business or service or occupation or another form of activity including its associated activities and for activities of the associates even if there is a permanent physical segregation. (Inserted vide Notification No. TNERC/DC/8-21 dated 07.10.2014. w.e.f. 03.12.2014)"

19. From the above it is clear that as per Section 13, for one door number one service connection could be given. As far as Section 14 is concerned, for one or more persons in connection to sub door numbers, for each person one service connection could be given at segregation of area for which different service connections could be obtained. As far as Section 15 is concerned, it is applicable to shopping complexes, malls to show that he is entitled to one connection.

20. A close reading of Section 14 would reveal that there should be segregation of area and there should be sub door numbers for getting electricity connection each door number. As far as this case is concerned, there is only a single door number and single building which is a single unit as confirmed by the photographs as well as by the inspection report of the respondent Corporation wherein it is found to be one unit by virtue of inspection made on 05.06.2011. Therefore, Regulation 27 (14) will not be maintainable for the appellant and in that event, Regulation 27 (13) alone would be applicable.

21. If Section 13 is applicable, the appellant is entitled to one connection and therefore, the respondents rightly clubbed the connections and disconnected three connections by retaining one connection to the appellant. Therefore, the same could not be interfered with. When the learned Single Judge directed the appellant to avail the opportunity of alternate remedy under Section 16 of the Regulation 27 to file an appeal, this Court thinks fit that it is unnecessary and there is no necessity to avail alternate remedy, when all the facts are produced before this Court.



22. When all the facts are proven before this Court, this Court has to seize the opportunity and decide the matter on merits instead of directing the parties to go before the authorities and thereafter, come before this Court. By the said exercise, not only the officials would be prejudiced but also the parties would come before this Court if they are aggrieved by the order of the officials. It would lead to multiplicity of proceedings adding one more case to the pending cases before this Court for which usually the judiciary will be blamed.

23. Therefore, the endeavour of this Court is to see that multiplicity of proceedings is avoided or to give no scope for pending cases as it will save the energy of the parties as well as issue will be decided at the earliest. Therefore, the said order passed by the learned Single Judge as far as giving an opportunity to the appellant is set aside as this Court decides the matter on merits.

24. It is seen from the above facts that the intention of the appellant is only to make use of the benefit given to the poor people as the poor people are given 100 units subsidy if the consumption is up to 100 units. Even though the appellant is educated, he camouflaged in such a manner and misrepresented to the authorities and got four connections viz., one for common area, one for brother, one for father and one for himself. Even though it is stated for three different persons and for one common area, peculiarly, all the connections stand only in the name of the appellant who is the creator of this proceedings.

25. It is also seen that having done all the misdeeds, the appellant is bold enough to find fault with the authorities by finding out some misdeeds which have been communicated in the e-mail dated 01.12.2018 and the relevant portion is as follows:

"When I applied for the above connections, there were/are two tenements and thus the service connections were all applied in my name - there is absolutely nothing wrong at all in my doing so. The two other service connections are also used by other tenants who too are not residing permanently in this place but frequent often every other month. In fact the high tension cable from the main supply post to my residence was also fixed by your department under approval from Chariman's office even at that point I refused to pay any gratification as demanded by you all inspite of me having suffered huge losses due to erratic power fluctuations which was duly reported to Chairman since AE / AEE / DE / EE failed to answer or return my several calls."'



26. Even if the parties try to avail and make use of the provisions to get more service connections, it is not known as to how the respondent authorities have given mechanically four separate connections. If a person applies for a connection, the officials have to go for inspection and find out how many door numbers are there and how many separate connections are entitled and to find out any sub door number is there or any separate unit is available in the same building.

27. If really inspection had been made, the authorities would have found that as per Section 13 of the Regulation 27 alone would be applicable in the absence of any physically segregated area and sub door numbers. In this case, as per the respondent Corporation, it is only a single unit and therefore, the respondent should be found fault with for giving four connections for a single unit without even making inspection and after making inspection found that four connections have been obtained for a single unit contrarily. Therefore, the respondents are also responsible for giving these service connections.

28. For the reasons stated above, the order of the learned single Judge to avail alternate remedy is set aside and the dismissal of W.P. No.3246 of 2019 dated 11.02.2009, upholding the order of clubbing of four connection into one is confirmed.

Accordingly, this Writ Appeal is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman & Managing Director,
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Corporation Limited,
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W.A.No.3033 of 2019
and
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SS (CO)
RLP (05/08/2021)